

Maureen JT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WAVERLY PROPERTIES, LLC,

Plaintiff,

-against-

KMG WAVERLY, LLC; VANGUARD
CONSTRUCTION & DEVELOPMENT CO.,
INC., BURT MILLER, an individual; ERIC
GRANOWSKY, an individual; STAN KLEGER,
an individual; BKSK ARCHITECTS, LLP;
STANISLAV SLUTSKY, P.E.; ROBERT
SILMAN ASSOCIATES, P.C., MARATHON
WAVERLY, LLC; RON BERNSTEIN, an
individual; and STRIBLING MARKETING
ASSOCIATES, LLC,

Defendants.
-----X

ECF CASE
09 Civ. 3940 (VM)

**STIPULATION
AND ORDER OF
DISMISSAL OF
CROSS-CLAIMS**

IT IS HEREBY STIPULATED, ORDERED AND AGREED, by and between the undersigned attorneys, that whereas no party hereto is an infant or incompetent person for whom a committee has been appointed and no person not a party has an interest in the subject matter of the action, pursuant to F.R.C.P. 41(a)(1)(A)(ii) and (c), the cross-claims of defendants KMG Waverly, LLC, Burt Miller, Eric Granowsky, Stan Kleger, Marathon Waverly LLC, Ron Bernstein (collectively the "Sponsor Defendants"), Vanguard Construction & Development Co., Inc. ("Vanguard"), BKSK Architects, LLP ("BKSK") and Stanislav Slutsky, P.E. ("Slutsky") are hereby resolved as follows:

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1. The Sponsor Defendants' cross-claims against Vanguard, BKSK and Slutsky for contribution are dismissed with prejudice;
2. The Sponsor Defendants' cross-claims against Vanguard, BKSK and Slutsky for indemnification are dismissed without prejudice;
3. Vanguard's cross-claims against the Sponsor Defendants, BKSK and Slutsky for contribution are dismissed with prejudice;
4. Vanguard's cross-claims against the Sponsor Defendants and BKSK for indemnification are dismissed without prejudice;
5. Vanguard's cross-claim against Slutsky for indemnification is dismissed with prejudice;
6. BKSK's cross-claims against the Sponsor Defendants and Slutsky for contribution and breach of contract for failure to procure insurance are dismissed with prejudice;
7. BKSK's cross-claim against Vanguard for breach of contract for failure to procure insurance is dismissed without prejudice.
8. BKSK's cross-claims against the Sponsor Defendants, Vanguard and Slutsky for indemnification are dismissed without prejudice;

9. BSKS's cross-claim against Slutsky for breach of contract is dismissed without prejudice;

10. Slutsky's cross-claims against the Sponsor Defendants, Vanguard and BSKS for contribution are dismissed with prejudice;

11. Slutsky's cross-claims against the Sponsor Defendants and BSKS for indemnification are dismissed without prejudice; and

12. Slutsky's cross-claim against Vanguard for indemnification is dismissed with prejudice.

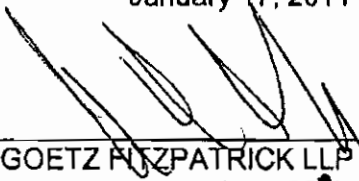
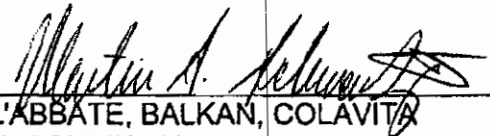

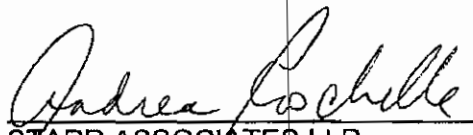
13. Any other already asserted cross-claims between any of the defendants are hereby dismissed with prejudice.

14. All defendants agree that the cross-claims herein dismissed without prejudice are deemed to be restored upon e-mail or written notification with a minimum of 45 days notice. If these notification requirements are complied with, no motion or any other action is required to restore any cross-claim which has been dismissed without prejudice.

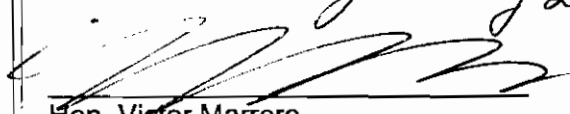
This stipulation is without costs as to any party. This stipulation may be filed without further notice with the Clerk of the Court. This stipulation may be executed

in counterpart, and facsimile and/or digitally scanned signatures shall have the same force and effect as original signatures.

DATED: Garden City, New York
January 17, 2011


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SO ORDERED: 21 January 2011


Hon. Victor Marrero
U.S.D.C.J.